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FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER
1300 I Street, N.W.
Washington, D.C. 20005

In re Application of :
LARMA, Ilkka, et al. :
U.S. Application No.: 09/673,794 :
PCT No.: PCT/FI99/00329 : DECISION
International Filing Date: 23 April 1999 :
Priority Date: 23 April 1998 :
Attorney's Docket No.: 06267.0053 :
For: CONTROLLED RELEASE PERORAL :
COMPOSITIONS OF LEVOSIMENDAN :

This decision is issued in response to applicants' "Response to Notification Of A Defective Response And Petition For Name Change Of Inventor" filed on 25 January 2001. Applicants have paid the required petition fee.

BACKGROUND

On 23 April 1999, applicants filed international application PCT/FI99/00329 which claimed a priority date of 23 April 1998 and which designated the United States. On 04 November 1999, a copy of the international application was communicated to the United States Patent And Trademark Office ("USPTO") by the International Bureau ("IB").

On 19 November 1999, a Demand was filed with the International Preliminary Examining Authority electing the United States. The election was made prior to the expiration of nineteen months from the priority date. As a result, the deadline for payment of the basic national fee was extended to expire thirty months from the priority date, i.e., 23 October 2000.

On 20 October 2000, applicants filed a transmittal letter for entry into the national stage in the United States accompanied by, among other materials, a check for the \$860 basic national fee. The transmittal letter noted that the international application had already been transmitted by the IB.

On 20 November 2000, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497 and a surcharge for providing the oath or declaration later than 30 months from the priority date were required. The Notification also informed applicants that the failure to submit these materials within one month of the date of the Notification would result in abandonment of the application.

On 20 December 2000, applicants filed a response to the notification Of Missing Requirements which included a check for the \$130 surcharge and an executed declaration. A review of this declaration reveals that the inventor identified on the published international application as Maarit HARJULA is identified as Maarit Backman on the declaration.

On 04 January 2001, the DO/EO/US mailed a Notification Of A Defective Response (PCT/DO/EO/916) and a Notification Of A Defective Oath Or Declaration (Form PCT/DO/EO/917) indicating that the declaration was unacceptable based on the discrepancy in the inventor's name.

On 25 January 2001, applicants filed the "Response To Notification Of A Defective Response And Petition For Name Change Of Inventor" considered herein. Attached to this petition is a copy of a Finnish court certificate, with an English translation thereof, which indicates that Maarit BACKMAN was 'formerly' Maarit HARJULA.

DISCUSSION

Under M.P.E.P. Section 605.04(c), a petition under 37 CFR 1.182 to change the name of an inventor must include the petition fee and "an affidavit signed with both names setting forth the procedure whereby the change of name was effected" or "a certified copy of the court order."

Here, the petition was accompanied by the required petition fee. The petition was accompanied by a copy of the a certificate indicating that inventor Maarit BACKMAN was 'formerly' Maarit HARJULA. However, the document submitted is not an original certified copy. Accordingly, the requirements for a grantable petition have not been met.

Because applicants have not submitted a grantable petition to change the name of the inventor identified on the international application as Maarit HARJULA, the declaration filed on 20 December 2000 fails to properly identify the inventors. The declaration therefore does not comply with 37 CFR 1.497.

CONCLUSION

The petition under 37 CFR 1.182 to change the name of the inventor identified on the international application as Maarit HARJULA is **DISMISSED** without prejudice.

Applicants have **TWO (2) MONTHS** from the mail date of this decision to submit a "Renewed Petition Under 37 CFR 1.182" which would permit acceptance of the declaration filed on 15 December 2000. Such a renewed petition would need to include either "an affidavit signed with both names setting forth the procedure whereby the change of name was effected" or an original "certified copy" of the document submitted with the present petition.

Failure to submit a proper response before the deadline set forth above will result in abandonment.

Please direct further correspondence with respect to this matter to the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, and address the contents of the letter to the attention of the International Division, Legal Staff.



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